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W.P.No.12137 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.12137 of 2024
and
WMP.Nos.13234 and 13235 of 2024

Bavan Motors
467, Tirupur Main Road, Kaikatti,
Pudur Avinashi,
Tirupur-641654
Rep. by its Managing Partner.

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Petitioner

Vs.

National Faceless Assessment Centre,
Room No.401, 2nd Floor, E-Ramp,
Jawharalal Nehru Stadium,
Delhi-110003.
Represented by Assessment Unit
Income Tax Department.

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Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records of the Respondent leading to issuance of Impugned Order dated 08.03.2024 (vide DIN **ITBA/AST/S/147/2023-24/1062267988 (1)**) and to quash the same.



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For Petitioner : Mr.S.Sathyannarayanan

For Respondents : Dr.B.Ramaswamy (R1 to R3)
Senior Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order dated 08.03.2024 and to quash the same.

2. The learned counsel for the Petitioner submitted that Petitioner is a partnership firm and a sub dealer /Authorised Service Center to the authorised dealer of Bajaj Two Wheelers viz., M/s.VSG Motors. The Petitioner collects the amount payable from the purchasers and pays the same to the authorised dealer i.e., M/s.VSG Motors. During the Assessment Year 2018-19, the Petitioner had collected an amount of Rs.1,96,49,455.00 from various customers for sale of two wheelers, which was deposited in its Bank account and thereafter the said amount was paid to the authorized dealer. He further submitted that on 02.04.2019, a fire accident took place in the Petitioner's business premises and all the stocks, books, records and computers got totally damaged, due to which the Petitioner was not able to prepare accounts. That apart, on account of the loss incurred, the Petitioner stopped its business. While so, a Show Cause Notice dated 06.03.2023 was issued to the petitioner. As the Petitioner's



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partners were facing financial difficulties, they could not file any response and subsequently order under Section 148A(d) was passed and Notice under Section 148 dated 20.08.2023 was issued. On receipt of the aforesaid notice, the Petitioner immediately submitted its reply on 08.09.2023 intimating the fire accident and sought one month's time. Further, another notice under Section 142(1) dated 28.11.2023 was issued by the Respondent, for which the petitioner submitted its reply on 30.11.2023, enclosing the bank statement for the relevant period.

3. Further he would submit that, the Respondent again issued Show Cause notice to the Petitioner on 23.02.2024. The Petitioner has submitted its reply on along with confirmation letter from M/s.VSG Motors, enclosing copies of GST Returns of M/s.VSG Motors. But the Respondent without properly considering the replies filed by the Petitioner has passed the impugned assessment order. He further submitted that the documents relating to M/s.VSG Motors and other documents called for by the Department were available with them and therefore seeks to remand the matter back to the Respondent for reconsideration.



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4. Dr.B.Ramasamy, learned Senior Standing counsel for the Respondent submitted that initially the Respondent issued Show Cause Notice dated 24.08.2023, to furnish nature and source of cash deposits, computation of income, copy of ITR, Copy of Bank Statements and other financial reports & nature of business activities of contractual receipt during the financial year 2018-19, for which the Petitioner vide its reply dated 08.09.2023 sought one month time and even after the expiry of one month, the Petitioner had not furnished the documents sought for by the Respondent and therefore another show cause notice dated 24.11.2023 was issued to the Petitioner, for which the Petitioner submitted its reply on 30.11.2023, furnishing only computation of income and bank accounts and no split up details with regard to the sales and how the cash amount was received were furnished to the Respondent. He further submitted that instead of submitting the documents sought for by the Respondent, they have given frivolous reply and therefore impugned order came to be passed. He further submitted that if the documents pertaining to M/s.VSG motors are available, they can file the same very well before the Appellate authority by way of filing an Appeal against the impugned order. Therefore prays for the dismissal of the Writ Petition.



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5. Heard the learned counsel for the petitioner as well as learned Senior Standing Counsel appearing for the Respondent.

6. I find force in the submissions made by the learned Senior Standing Counsel appearing for the Respondent. A perusal of the reply dated 30.11.2023 shows that the same is bereft of details. The Petitioner had not submitted the documents sought for by the Department and only computation of income and bank accounts were furnished, without any split up details with regard to sales made and the cash deposits. It is also seen that only after providing sufficient opportunities to the Petitioner, impugned order came to be passed and therefore it cannot be said that the impugned order passed is in violation of principles of natural justice. If the Petitioner is so aggrieved by the impugned order, he can very well file an Appeal before the Appellate authority to substantiate its case. Therefore, this Court is not inclined to entertain this Writ Petition.

7. In view of the same, this Writ Petition is dismissed with liberty to the Petitioner to file an Appeal before the Appellate authority within a period of thirty days from the date of receipt of a copy of this order. There shall be no



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KRISHNAN RAMASAMY, J.

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order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

12.09.2024

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To

National Faceless Assessment Centre,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi-110003.
Represented by Assessment Unit
Income Tax Department.

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